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Proposed Regulation Agency Background Document

THIS IS THE SECOND (REVISED) ISSUANCE OF THE PROPOSED REGULATION

Agency name	Board (Department) of Juvenile Justice
Virginia Administrative Code (VAC) citation	6 VAC 35 -140
Regulation title	Standards for Juvenile Residential Facilities
Action title	Amend the regulation to provide standards for post-dispositional detention in accordance with the 2000 Appropriations Act, item 476.A.3. Also, to reinstate certain historical standards that conform closely to nationally accepted standards.
Document preparation date	November 25, 2003

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The regulation sets operating standards for residential facilities in Virginia's juvenile justice system, including group homes, detention homes, juvenile correctional centers and boot camps.

Two broad categories of amendments are proposed. The first category includes new or expanded standards governing post-dispositional detention programs, as required by Code of Virginia Section 16.1-284.1.D: "Standards for these facilities shall require juveniles placed pursuant to this section for a period which exceeds thirty calendar days to be provided separate services for their rehabilitation, consistent with the intent of this section."

The second category includes new or expanded standards closely tracking those of national accrediting organizations. Generally, the proposed standards follow those of the American Correctional Association, but in a few places relating to health care, the proposed standards follow the language of the National Commission on Correctional Health Care. Most of the proposed new standards will affect only juvenile correctional centers and halfway houses operated by the Department; with one or two exceptions, the proposed new standards will impose no additional burden on locally operated programs. It should be noted that many of the proposed "new" standards, or substantially similar requirements, were in effect and applicable to juvenile correctional centers prior to January 1998, when the regulation was simplified to give juvenile residential facilities greater operational flexibility. While the Department has generally continued to operate in accordance with many of those nationally recognized standards, their removal from Virginia regulations has meant that those historical standards have also been removed from the certification audit process, which is the primary means by which the Board exercises its statutory oversight responsibilities. As a consequence, the Department cannot always demonstrate that it continues to operate in accordance with the nationally recognized standards. By reinstating some of those historical standards into the regulation, the Board is affirming that it is the policy of the Commonwealth to operate its juvenile correctional facilities in accordance with nationally recognized standards in juvenile corrections, and is providing a routine means to document and demonstrate compliance with those national standards.

Basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The general authority of the Board of Juvenile Justice to promulgate regulations is found in Code of Virginia § 66-10 (6), which provides that the Board shall have the power and duty "[t]o promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Director or the Department."

The specific legal authority of the Board to promulgate regulations governing local juvenile residential facilities is Code of Virginia § 16.1-309.9.A., which directs that "The State Board of Juvenile Justice shall develop, promulgate and approve standards for the development, implementation and evaluation of the range of community-based programs, services and facilities authorized by this article." In addition, Code of Virginia § 16.1-248.1 (D) provides that "A juvenile may only be ordered confined pursuant to this section to a facility in compliance with standards established by the State Board for such placements. Standards for these facilities shall have regard for reasonable utilization of these facilities and the requirements of § 16.1-309.4, consistent with the intent of this section."

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The regulation establishes operational standards for residential facilities housing juveniles in Virginia's juvenile justice system. The public safety is enhanced by providing residential placements for juveniles whose delinquent behavior makes them a threat to persons or property. In addition, the regulation sets standards to ensure that such juveniles are provided a safe and humane environment; are appropriately and adequately supervised; and receive meaningful programs and services.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

6 VCAC 35-140-10 includes several amended definitions to bring this regulation into closer compliance with nationally recognized standards.

6 VAC 35-140-20 contains new paragraph B, which commits the Board and the Department to consider standards of the American Correctional Association in developing Virginia's regulation.

6 VAC 35-140-22. is NEW, providing that accreditation by the American Correctional Association is deemed compliance with this regulation.

6 VAC 35-140-23 is NEW. It authorizes outcome-based and performance-based standards.

6 VAC 35-140-24 in NEW. It states that this regulation establishes policy of the Commonwealth.

6VAC35-140-30 is AMENDED to indicate that each section of the regulation indicates the class of residential facility to which it applies.

6 VAC 35-140-45 is NEW. It requires that all juvenile residential facilities comply with all applicable laws and regulations.

6 VAC 35-140-50, 60, 65 and 70 contain minor editorial changes.

6VAC35-140-75 is substantially AMENDED, dealing with the inspection of ward mail for contraband and the censoring of ward mail for security reasons.

6VAC35-140-80 contains minor editorial changes.

6VAC35-140-90 is amended to include a provision that visiting facilities permit informal communication between residents and visitors, including opportunity for physical contact.

6VAC35-140-110 and 120 contain minor changes.

6VAC35-140-130 is AMENDED, removing the requirement that any felony committed by residents or staff OFF PREMISES be reported to the facility administrator and law enforcement.

6VAC35-140-140 and 150 contain only minor changes.

6VAC35-140-170, 180 and 190 contain only minor changes.

6VAC35-140-192, Provision of health care, is new. The language follows that of the National Commission on Correctional Health Care.

6VAC35-140-200 and 210 contain only minor changes.

6VAC35-140-220 is AMENDED. The term “health record” replaces “medical record.”

6VAC35-140-230 is AMENDED to include any off-site medical treatment, and to remove the reference to being transported in a “timely manner.”

6VAC35-140-250, Suicide prevention, is AMENDED to refer to a “qualified medical or mental health professional.”

6VAC35-140-260 is AMENDED to specify what elements are required to be part of the employee background investigation, and to add a requirement regarding the supervision of non-staff working in the facility, and to clarify conditions under which new hires may work pending receipt of the FBI fingerprint check.

6VAC35-140-270 is AMENDED. New language provides the legal basis for conducting annual physical exams of employees.

6 VAC 35-140-275 is new, requiring a written Code of Ethics for employees.

6VAC35-140-280 is AMENDED, requiring that staff be trained on the rules of juvenile conduct, the rationale for the rules, and the sanctions available.

6 VAC 35-140-290 contains only minor editorial changes for clarity.

6 VAC 35-140-295 is NEW, requiring written policy regarding campaigning, lobbying and political activities by employees

6 VAC 35-140-300 contains only minor editorial changes for clarity.

6VAC35-140-310 is AMENDED to require at least quarterly tests of emergency and communications systems.

6 VAC 35-140-320, 330 and 340 contain only minor editorial changes for clarity.

6 VAC 35-140-350 is AMENDED to add hygiene and nutrition to the curriculum of independent living programs.

6VAC35-140-385 is NEW, requiring each halfway house to have, and to operate in accordance with, a written statement of its mission and role.

6VAC35-140-386 is NEW, requiring a triennial review of the collective service needs of the halfway house population.

6 VAC 35-140-387 is NEW, requiring that each halfway house implement a program to reinforce positive behavior of residents.

6VAC35-140-388 is NEW, requiring that halfway houses demonstrate compliance with Department procedures requiring communications and reports.

6VAC35-140-389 is NEW, requiring each halfway house to demonstrate compliance with department procedures and state policies governing financial practices .

6 VAC 35-140-400 corrects the name of the American Pediatric Society.

6 VAC 35-140-440 contains minor editorial change for clarity.

6VAC35-140-450 is amended to provide that a full medical examination is not required if there is documented evidence of a complete health appraisal within the previous 90 days.

6 VAC 35-140-460 and 470 contain minor editorial changes for clarity.

6VAC35-140-480 is AMENDED to allow reasonable flexibility in disposing of residents' disallowed or abandoned personal possessions.

6 VAC 35-140-490 contains minor editorial change for clarity.

6VAC35-140-500 is amended, requiring each detention home and juvenile correctional center to have and follow written policy and procedure governing youth access to publications.

6VAC35-140-510 is deleted from its current location and moved to new section 707, where it becomes part of a series of standards relating to postdispositional detention.

6VAC35-140-530 is amended to require both indoor and outdoor recreation areas, to require that large muscle activity be available daily, to allow flexibility in scheduling outdoor activities, and to require that a variety of fixed and movable equipment be available.

6VAC35-140-540 is AMENDED as to staff supervision of residents of the opposite sex; staff control of the movement of juveniles; supervised transportation of juveniles; supervision of outside personnel working in the facility. Juveniles may not supervise or control other youths except when practicing leadership skills as part of an approved program under staff supervision.

6 VAC 35-140-545 is NEW to this regulation, but merely adopts the standard currently in effect in the STANDARDS FOR THE INTERDEPARTMENTAL REGULATION OF CHILDREN'S RESIDENTIAL FACILITIES, which applies to all juvenile residential facilities in Virginia.

6VAC35-140-550 is substantially amended to clarify provisions that were found to be confusing in practice. Additional guidance, drawn from ACA standards, is added.

6VAC35-140-560 is amended to require 15 minute checks when a resident is placed in room confinement or isolation. References to "regional manager" and "chief of operations" are replaced with more appropriate procedural instructions. Following ACA standards, the living conditions of juveniles in isolation or room confinement must approximate those of the general population.

6VAC35-140-570 is amended, clarifying that certain permissions must be obtained before a juvenile is permitted to be questioned by certain authorities.

6 VAC 35-140-580, 590, 600 and 610 contain minor editorial change for clarity.

6 VAC 35-140-615 is NEW, requiring an alternate power source for secure facilities.

6 VAC 35-140-620 contains minor editorial change for clarity.

6VAC35-140-630 is AMENDED, giving more specific guidance as to what is required to control the facility perimeter.

6VAC35-140-660, Chemical agents, is AMENDED to remove any reference to tear gas or mace.

6VAC35-140-670 is AMENDED to clarify who was intended by the term "regulatory authority." "Mobile restraint chair" is listed as a possible restraint. The use of restraints must be documented.

6 VAC 35-140-680 contains minor editorial change for clarity.

6VAC35-140-685 is new, governing the use of restraints for medical and mental health purposes.

6 VAC 35-140-690 contains minor editorial change for clarity.

6VAC35-140-700 is AMENDED, requiring consultation with a mental health professional, not necessarily a mental health "authority."

6VAC 325-140-701 through 709 are NEW and apply to post-dispositional detention programs.

NEW 6VAC 325-140-701 requires specific approval by the Board of a post-dispositional detention program.

NEW 6VAC 35-140-702 requires each post-dispositional program to request a written agreement with the court services unit, defining working relationships and responsibilities.

NEW 6 VAC 35-140-703 requires each post-dispositional detention program to have a written program description.

NEW 6 VAC 35-140-704 permits and sets standards for paid employment of post-dispositional residents.

NEW 6 VAC 35-140-705 requires the post-dispositional program staff to check with the appropriate licensing authority to verify that professionals providing services are appropriately licensed.

NEW 6 VAC 35-140-706 authorizes the facility administration to limit contact with juveniles by persons who may have a physical, mental or emotional condition that might jeopardize the safety of juveniles.

NEW 6VAC35-140-707 requires written policies, procedure and practice ensuring that the facility is available for pre-dispositional detention as well as the post-dispositional program; specifies the information to be obtained from the court service unit; requires a written plan with the CSU to access treatment programs or for work release; requires programs not generally available to pre-dispositionally detained youth; and addresses the statutorily required assessment as to whether a juvenile is an appropriate candidate for post-dispositional placement.

NEW 6 VAC 325-140-708 authorizes facility policy and procedure that either permits or prohibits self-medication by post-dispositional residents.

NEW 6 VAC 35-140-709 identifies specific standards that appear in the Standards for the Interdepartmental Regulation of Children's Residential Facilities that apply to post-dispositional detention programs.

The remaining standards deal exclusively with juvenile correctional centers.

6 VAC 35-140-711 is NEW. It details training requirements for staff of juvenile correctional centers and requires library and reference services to supplement the training program.

6 VAC 35-140-712 is NEW. It requires that all employees of juvenile correctional centers receive an annual performance review.

6VAC35-140-713 is NEW. It requires each juvenile correctional center to have a written document describing its organization.

6VAC35-140-714 is NEW. It mandates that every juvenile correctional center have a community-facility advisory committee.

6VAC35-140-715 is NEW. It establishes minimum requirements for administrators to visit various areas of the facility, meet with staff, and send reports to the Department's central administration.

6VAC35-140-730 is AMENDED. Reference to "personal control unit" is removed. Availability of single occupancy rooms is required for certain wards.

6VAC35-140-740 is amended to require annual review of post orders, and to require that employees who are permanently assigned to a post read and sign the post orders.

6VAC35-140-750 contains minor editorial change for clarity.

6VAC35-140-760 is amended to suggest that institutional operating procedures need be developed only when it is necessary to elaborate upon or deviate from standard operating procedures.

6VAC35-140-770 contains minor editorial change for clarity.

6 VAC 35-140-805 is new, providing a process within the certification audit for facilities to demonstrate compliance with guidance from the Department's central administration.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The regulation governs the operation of juvenile residential facilities. The primary advantage to the general public in adopting these revised standards is to protect the public safety by providing secure facilities in which to confine juveniles who may be a threat to others or to property.

There are no known significant advantages or disadvantages to businesses of implementing the amended provisions.

There may be significant advantages to individual citizens, particularly to the juveniles who are placed in such residential facilities and their families, inasmuch as the regulation sets standards that provide for residents' safety, health care, educational and vocational programming, psychological and other treatment programs, etc.

The primary advantage to the Department and to local and regional operators of juvenile residential facilities in adopting the proposed amendments is that the facilities will be better able to demonstrate, through the board's certification process, compliance with nationally recognized

standards for the operation of juvenile correctional facilities. Demonstrated compliance with national standards can be a significant advantage in litigation over agency policies, procedure and practice, and should reduce the facilities’ liability exposure.

Economic impact

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>There is no projected cost to the state to implement and enforce the amended regulation over and above costs already associated with implementing and enforcing the existing regulation. The Department of Juvenile Justice, as well as most local detention homes and group homes, have historically looked to national accreditation standards as a guide to their practice. Generally, the new or modified standards codify historical practice and provide a means for monitoring and documenting compliance with nationally recognized best practices.</p>
<p>Projected cost of the regulation on localities</p>	<p>There may be some fiscal impact on localities if their detention homes are not currently meeting certain ACA requirements. One example would be the requirement at 6 VAC 35-140- that facilities have an alternate source of power in event of emergencies. The actual cost to a given locality will depend on the current condition of the residential facilities in which it places juveniles, and its relationship to each facility (i.e., some localities own and operate facilities; some localities participate in commissions through which they share ownership and operating costs; and some localities purchase bed space on a per-use basis.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>The regulation will affect detention homes operated by localities and commissions, as well as the one state—operated detention home in Culpeper. Also affected will be Department of Juvenile Justice juvenile correctional centers and halfway houses. Also, group homes and shelters.</p>
<p>Agency’s best estimate of the number of such entities that will be affected</p>	<p>8 juvenile correctional centers housing approximately 1200 juveniles; 3 state operated halfway houses 23 detention homes (with a capacity for approximately 1400 juveniles); 38 group homes (housing approximately 630 juveniles) no operating boot camps</p>
<p>Projected cost of the regulation for affected individuals, businesses, or other entities</p>	<p>No costs will uniformly impact all facilities. Depending on the condition and equipment of a given facility, there MAY be costs involved in bringing the facility into compliance with certain new standards. In the public comment period to date, no facilities have indicated that the amended regulation will result in significant new costs.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

The regulation is mandatory and not discretionary. However, it might be possible for the Department to continue to rely on agency policy and procedure rather than to incorporate into regulation provisions that comply with nationally recognized standards, since the Department has continued to operate in accordance with many of the nationally recognized standards that were deleted in the 1998 revision. The Department has rejected this approach, however, because without guidance at the regulatory level the Board of Juvenile Justice has no routine way to monitor and certify agency compliance with such nationally recognized standards. With the new standards incorporated into this regulation, the Board 's certification process provides a routine mechanism for monitoring and documenting compliance with nationally recognized best practices in juvenile corrections.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
The Virginia Council on Juvenile Detention	recommended the change at 6VAC35-140-450 clarifying that “a full medical examination is not required if the juvenile was a resident in the facility within the previous 60 days; in such cases, a physician or qualified health care practitioner shall review the juvenile’s medical file and update as necessary.”	The recommendation is accepted and included in the revised proposed regulation.
The Virginia Council on Juvenile Detention	Clarify 6VAC35-140-480 to say the facility shall make reasonable documented efforts to return the property to the resident, parent or legal guardian and shall have a written policy for the disposal of personal property that remains unclaimed 90 days after a documented attempt to return the property.	The recommendation is accepted and included in the revised proposed regulation.
The Virginia Council on Juvenile Detention	Amend 6 VAC35-140-530. It is not always safe to let all residents outside for recreation every day. Allow us to develop a schedule with a minimum requirement for outdoor recreation and an exception when the weather is too bad to be	The recommendation is accepted and included in the revised proposed regulation.

	outside.	
The Virginia Council on Juvenile Detention	Amend 6 VAC 35-140-450 to not require a complete physical on new admissions if one was done within previous 90 days	Suggestion adopted, provided the health record is updated.
The Virginia Council on Juvenile Detention	Amend 6 VAC 35-140-550 governing due process. The current standard is cumbersome in a detention setting.	The revised proposed regulation attempts to simplify and clarify the due process requirements in both detention homes and juvenile correctional centers.
The Virginia Council on Juvenile Detention	Do not change 6VAC35-140-560 from checks every 30 minutes to checks every 15 minutes. When a juvenile arrives for intake, staff may not be free to make their rounds of the facility until the new arrival is in-processed.	The proposed regulation amends 6 VAC 35-140-560 to require checks every 15 minutes consistent with ACA standards.
Department of Juvenile Justice Division of Institutions	Amend 6 VAC 35 140-560 to require 15 minute checks consistent with ACA standards and with current Department practice.	
Department of Juvenile Justice Division of Institutions	Various additions to the regulation, (e.g., 6 VAC 35-140-540, 711, 712, 713, 714, 715, 730 (C), and 740 (B) are not needed in regulation; standard operating procedures provide sufficient guidance on these matters.	Both the standard operating procedures cited and the draft regulation follow ACA standards, The provisions are included in the regulation to underscore the agency's commitment to meet nationally recognized standards and to provide a means, via the Board's certification process, for documenting and demonstrating that the Department's practice comports with the nationally recognized standards.
DJJ Deputy Director for Community Programs	Not sure 6 VAC 35-140-805 should be included in the regulation: I think that we should have certain consistent policies and procedures across JCCs and Post-D operations, which allow for inclusion of nuances of each facility (Similar to Community P&P Manual). We should audit to these procedures the way we audit to procedures in Community Programs. Putting these procedures and policies into law, will require, each time we want to change one of these procedures, changes in law."	The revised propose regulation refers to Department procedures, which may be changed as circumstances warrant. The regulation requires compliance with policies, procedures, directives or other official guidance from the Department's central administration. The instructions themselves are not written into the regulation, and so the regulation need not be revised each time the policies, procedures or directives are modified.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The amendments regarding post-dispositional detention should (indirectly) strengthen the institution of the family. At the heart of the statutory provision for locally-operated post-

dispositional detention programs is the notion that in some cases, juveniles who would otherwise be committed to state care can be better treated in or near their own communities, close to their families and other support systems.

There are few amendments throughout the regulation that will potentially strengthen the institution of the family. For example, new 6 VAC 35-140-791 makes specific provision for wards to leave the facility under supervision of trained facility staff for needed medical and dental care, to visit ill family members or to attend funerals. In addition, new 6 VAC 35-140-815 permits informal communication and opportunity for physical contact during family visits to the facility.

Otherwise, the regulation will have little or not impact on the institution of the family.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10		Terms used in the regulation are defined.	Definitions are added for the following terms: <ul style="list-style-type: none"> • “Halfway House” • “Health Authority” • “Informed Consent” • “juvenile residential facility” • “legal correspondence and mail”\ Also, the following definitions are amended: <ul style="list-style-type: none"> • “Family oriented group home” • “Health trained staff person” • “Medical record” is changed to “health record” consistent with practice in the health field. • “Military style discipline” no longer includes references to particular examples but remains generic. • “Segregation” now includes special housing units or individual cells. The following terms are DELETED because they are no longer used in the regulation: <ul style="list-style-type: none"> • “Minor infraction” • “Main control center” • “Personal control room”

20		Paragraph B is added, stating that the regulation is developed in consideration of American Correctional Association standards.	The Board and the Department intend to adopt standards for Virginia's juvenile justice system consistent with nationally recognized standards to the extent practicable under Virginia law.
	22	National Accreditation is Deemed Compliance with these Standards	Facilities accredited by the American Correctional Association are spared a redundant certification of compliance with Virginia standards; where there is no ACA standard parallel to Virginia regulation, the Board retains the right to monitor compliance with the Virginia regulations.
	23	Outcome-based and performance-based standards authorized.	Facilities are encouraged to develop outcome-based measures of performance. A similar provision has been in effect for non-residential programs for over three years.
	24	Affirms that the regulatory requirements establish the policy of the Commonwealth	Historically, the Board has issued separate policies re-stating the requirements set out in the board's regulations. This section makes such redundant restatements unnecessary.
30		Rather than state which parts of the regulation apply to various facilities, this section now states that each individual section indicates what type of facilities that are governed by the section.	The intent is to make it clear to facility operators and to inspectors exactly what requirements apply to which facilities.
	45	All juvenile residential facilities shall comply with all applicable laws and regulations.	Officially notifies facilities that their compliance with laws and regulations outside of the instant regulation may affect their certification status.
50		Minor addition emphasizes that the nondiscrimination requirement applies to all residential facilities.	For maximum clarity.
60		Minor change to title; "health screening" replaces "medical screening"; the section is applicable to all facilities.	All changes are intended to make the regulation clearer.
65		Minor changes	Intended to make the regulation clearer.
70		Minor changes	Intended to make the regulation clearer.
75		A. Adds requirement for written procedures; clarifies that this paragraph applies only to NON-LEGAL mail.	This is consistent with ACA standards.
75		B. Adds requirement for written procedures. Other changes are intended to clarify the underlying standard.	This is consistent with ACA standards.
75		C. Requires written procedures and the presence of a witness if legal mail is to be opened and inspected	This is consistent with ACA standards. Mail that APPEARS to be from protected classes of senders may be counterfeit.
75		D. Restates current provision	This protects the rights of the correspondents

		that mail may be opened and read with a court order; but now requires a witness.	and ensures that the facility operates in accordance with proper procedures and the applicable court order.
75		I. Requires forwarding of letters and packages.	Consistent with ACA standards.
75		K. Policy and procedure governing mail must be available to staff and juveniles, reviewed annually and updated as needed.	Consistent with ACA standards.
80		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
90		A and B are amended to clarify that the standard applies to all juvenile residential facilities C requires that visiting facilities permit informal communication between residents and visitors, including opportunity for physical contact.	Secure facilities may provide some areas that prevent physical contact, but there must also be areas where physical contact may be permitted, when there is no threat to facility security.
110		Minor changes	Clarify that the provisions apply to all juvenile residential facilities.
120		Minor changes	Clarify that the provisions apply to all juvenile residential facilities.
130		Minor changes clarify that the requirements apply to all juvenile residential facilities; requirement to report crimes that occur away from the facility is deleted.	Facility administrators cannot be expected to know if a crime was committed away from the facility.
140		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
150		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
179		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
180		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
190		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
	192	Nursing personnel must give treatment pursuant to written or verbal orders signed by a person legally authorized to give such orders	The language follows that of the National Commission on Correctional Health Care.
200		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
210		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
220		“Medical records” changed to “Health records”; availability of such records subject to federal laws and regulations	The terminology is more consistent with practice in the health professions; several federal laws and regulations (e.g., HIPAA) affect the availability of health records.

230		Includes medical care outside the facility other than hospitalization. Requirement for "timeliness" is deleted.	The same requirements should apply for outpatient services. "Timeliness" cannot be measured, so cannot be enforced.
250		Applies to all facilities. "Qualified medical professional" replaces local or state mental health authority	There was some confusion as to what constituted a local or state authority. Under the revised standard, a license as a health professional is sufficient authority.
260		New paragraph A specifies the content of the background check and what the information is used for. New paragraph B requires procedures for supervising non-staff persons who have contact with residents. Old paragraph A (renumbered as paragraph C) clarifies the conditions under which newly hired staff may work pending receipt of fingerprint checks.	Background checks are intended to protect juveniles from abusive individuals, and to protect facilities from liability. The revisions are intended to protect the integrity of the background checking process
270		Minor changes clarify that the requirements apply to all facilities; the new final sentence allows re-examination of persons hired after the effective date of this regulation	The intention is to ensure that staff have the level of medical health or physical ability required to perform assigned duties.
	275	Requires a code of ethics	Consistent with ACA standards.
280		Minor changes clarify that the section applies to all facilities; New paragraph C requires staff to know rules of conduct and sanctions;	It is essential that staff be trained in all areas that they are responsible for enforcing.
290		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
	295	Requires policy governing employee political activity, lobbying, etc.	Consistent with ACA standards.
300		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
310		Minor change clarifies that the provisions apply to all juvenile residential facilities. New requirement for quarterly testing or more often if indicated by manufacturer.	Consistent with ACA standards. The intent is to ensure that all safety, communications and emergency systems are properly operating.
320		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
330		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
340		Minor change	Clarifies that the provisions apply to all juvenile residential facilities.
350		Hygiene and nutrition are	Juveniles need a broad range of life skills to

		added to curriculum of independent living programs.	successfully live on their own.
	385	Halfway houses must describe their mission and role within the context of the total direct care system and offer programs and services consistent with the described mission and role.	Consistent with ACA standards
	386	Halfway houses to review the collective service needs of juveniles, evaluate the effectiveness of existing programs and services in meeting those needs; and implement special programs to meet the needs of youth with specific types of problems.	Consistent with ACA standards
	387	Halfway houses must have a system of rewarding positive behavior of individual youth.	Consistent with ACA standards.
	388	Halfway houses must follow Department procedures in reporting incidents and other required data and information	Consistent with ACA standards
	389	Halfway houses must comply with state and agency fiscal policies.	Consistent with ACA standards
400		Corrects the name of the American Pediatric Society	
440		Minor change	Clarifies that the provisions apply to all secure custody facilities.
450		A. Does not require a full physical of new admissions if one was done within 90 days	A complete physical is not needed in these circumstances, provided the health record is appropriately updated.
		B. Clarifies that only detention homes may not accept financial responsibility for residents' pre-existing conditions	Juvenile correctional centers are not exempted from financial responsibility to treat pre-existing conditions. Whether or not such financial responsibility is assumed continues to depend on the facts of a particular case.
460		Minor change	Clarifies that the provisions apply to all secure custody facilities.
470		Minor change	Clarifies that the provisions apply to all secure custody facilities.
480		Distinguishes contraband from juvenile's personal property. Contraband may be disposed of. Allows "reasonable efforts" to return property to parents. Property unclaimed after 90 days may be disposed of.	Detention homes, despite their best efforts, are not always able to locate parents or arrange for return of property.
490		Minor change	Clarifies that the provisions apply to all secure custody facilities.

500		A. Minor change	Clarifies that the provisions apply to all secure custody facilities.
		B. Requires detention homes and juvenile correctional centers to have policy on access to publications	Consistent with ACA standards.
510		Deleted from its current location	Moved to a new section including various requirements for post-dispositional detention.
530		Minor changes clarify intent. New provisions allow outdoor exercise according to facility plan, three times a week unless documented reasons preclude.	Gives detention homes flexibility to meet requirement for outdoor recreation while taking into account safety and security factors.
540		Minor changes to A, B and C clarify that the requirements apply to all secure facilities.	
		New D: staff shall regulate movement of juveniles within the facility in accordance with written procedures.	Consistent with ACA standards.
		New E: requires policies governing transport of juveniles outside the facility.	Consistent with ACA standards.
		New F: service personnel not to work in presence of juveniles, except under staff supervision	Consistent with ACA standards.
		New G: juveniles not to supervise other juveniles except as part of a supervised leadership program	Consistent with ACA standards but allows leadership training program under staff supervision
	545	Establishes minimum staffing pattern for secure facilities.	These staffing patterns are those that have been historically required by the Standards for the Interdepartmental Regulation of Children’s Residential Facilities. Because those standards are proposed to be amended, this regulation retains and codifies the historical staffing requirement.
550		A drops the current threshold of a 48-hour sanction, replaces it with the concept of “minor violation” and allows the use of room restriction in such cases.	Consistent with ACA standards, the change allows more flexibility for detention homes and now applies to juvenile correctional centers as well.
		B requires written procedure to be followed whenever a juvenile is charged with a major rule violation.	The revision simplifies the regulation by removing the 48-hour sanction threshold, and treating all secure facilities similarly.
		New C allows a resident to admit to a charge; specifies how to proceed if the resident does not admit to the charge.	In practice, juveniles have always been able to admit to charges, but the regulation has not always been clear about how to handle such cases.

		D authorizes and de-limits Pre-hearing detention	The changes clarify what was always the intent of the regulation.
		New E details steps to follow when a resident commits a rule violation that cannot be resolved informally.	The regulation has historically intended these specific steps, but occasionally a facility has interpreted the standard differently. The revisions clarify the requirements.
560		A, B, C and D are amended to clarify the intent of the regulation.	
		In D, "regional manager" is replaced by "designated staff person; a requirement is added to report "in accordance with Department procedures."	The position of regional manager has been abolished. Department procedures have historically prescribed the manner of reporting; the regulation merely codifies the requirement.
		Old C is deleted	The position of Chief of Operations no longer exists; other requirements are continued in revised D,
		Revised F requires visits to confined juveniles by administrator or designee	Clarification of historical requirements.
		New G requires that living conditions in administrative confinement or isolation approximate those of the general population; exceptions must be documented.	Consistent with ACA standards;
570		Prohibits questioning of residents without permission of parents, guardian or attorney.	Historically, the section required only a policy addressing any permission required. Thus, conflicting policies were possible.
590		Minor change	Clarifies that the provisions apply to all secure custody facilities.
600		Minor change	Clarifies that the provisions apply to all secure custody facilities.
610		Minor change	Clarifies that the provisions apply to all secure custody facilities.
	615	Alternate power source required.	Consistent with ACA standards. This is good practice for secure custody facilities.
620		Minor change	Clarifies that the provisions apply to all secure custody facilities.
630		A contains minor change	Clarifies that the provisions apply to all secure custody facilities
		B requires entrance and exit from the facility at designated points	Consistent with ACA standards. This is good practice for secure custody facilities.
660		Removes any reference to tear gas or mace.	The Board has never authorized, and has not intention of authorizing, the use of tear gas or mace by facility staff. In emergency situations, law enforcement personnel may use these and other resources as necessary and in accordance with their own policies, procedures and training.

		For “regulatory authority” substitutes “Department administrator” responsible for the facility.	There was some confusion as to who was intended by the former term. Department procedures will specify who is responsible for overseeing each facility.
670		Mobile restraint chair is authorized for use in secure facilities.	
		Notice, not advance approval, is required when restraints are used in emergency situations	Emergencies require immediate action and subsequent review, not advance approval.
670		Written record is required of all distributions of restraint equipment	Consistent with ACA standards.
680		Minor change	Clarifies that the provisions apply to all secure custody facilities.
	685	Requires policies governing the use of restraints for mental health purposes	Consistent with ACA standards. This has been the practice in juvenile correctional centers but was not addressed in current regulations.
690		Minor changes are made	Clarify existing language.
700		Requires consultation with mental health professional when juveniles are restrained for extended periods.	Intended to end confusion as to who is a mental health “authority.”
	701	Specifies approval required of post-dispositional detention programs	Based on statutory requirements and interdepartmental regulations issued by the Board and three other agencies.
	702	Requires written agreement between post-dispositional program and court service unit that places juveniles in the facility	Placement in post-D programs should be a coordinated effort between these two parts of the juvenile justice system.
	703	Requires written description of the post-D program and services	Ensures that programs will be developed intentionally, measure success, address the possibility of services being provided outside of the facility, and provide for termination of services either upon satisfactory completion or lack of cooperation by juveniles.
	704	Establishes minimum standards when paid employment is part of the post-D program	Work in an appropriate setting may be part of the facility’s overall post-dispositional programming. All work arrangements must be appropriately approved and must comply with applicable regulations.
	705	Licensed professionals must provide services that typically require a license.	To protect residents from unqualified service providers and to protect facilities from liability.
	706	Allows post-D program to suspend contact with juveniles by persons who may pose a threat to the well being of juveniles	To protect residents from unqualified service providers and to protect facilities from liability.
	707	Paragraph A requires post-D programs to be developed in consideration of overall space	This requirement implements Code of Virginia § 16.1-309.9(A), and supports the statewide plan outlined in COV § 16.1-309.4.

		utilization in the facility.	
		Paragraph B requires that certain documents be sought from the court and the CSU, and that a written plan be developed to enroll the youth in locally available programs.	These requirements ensure that juveniles are appropriately placed in post-dispositional detention programs, and that specific services provided to the youth are appropriate to the youth’s needs and the community’s available resources.
		Paragraph C distinguishes post-D from pre-D programs and services	
		Paragraph D requires an assessment as to whether a juvenile is an appropriate candidate for placement in a post-dispositional program.	The standard implements statutory requirements.
		Paragraph E requires both CSU and detention home to agree on allowing a post-D juvenile to leave the facility to access services in the community	This requirement is to protect the public safety, and to protect the facility and the CSU from liability for inappropriate releases into the community.
	708	Requires procedures governing self-medication by juveniles in post-D.	The standard permits flexibility, under the supervision of the health authority, in meeting the self-medication needs of juveniles—particularly those who may leave the facility to work or to access services.
	709	Lists specific sections of the Standards for the Interdepartmental Regulation of Children’s Residential Facilities that apply to post-dispositional detention programs.	The standard makes clear what is already required by other regulations.
	711	Paragraph A requires 120 hours of training in first year and 40 hours annually thereafter for all staff of juvenile correctional centers	Consistent with ACA standards. Does not impose new requirements on the Department.
		Paragraph B specifies that professional specialists must receive 120 hours of training in first year and 40 hours annually thereafter	Consistent with ACA standards.
		Paragraph C specifies that managers and administrators staff must get 40 hours of training in first year and 40 hours annually thereafter	Consistent with ACA standards
		Paragraph D requires that clerical staff receive 16 hours of training in first year and 16 hours annually thereafter	Consistent with ACA standards
		Paragraph E requires library resources to support the training program	Consistent with ACA standards

	712	Requires an annual performance review	Consistent with ACA standards, but requires compliance with state policies and procedures.
	713	Requires a written description of the juvenile correctional center’s organization.	Consistent with ACA standards
	714	Requires a community advisory Committee for the JCC	Consistent with ACA standards. This has been the practice of JCCs historically, and is once again codified in regulation.
	715	Paragraph A requires compliance with Department procedures governing various reports	Consistent with ACA standards. This has been the practice of JCCs historically, and is once again codified in regulation.
		Paragraph B requires superintendent to meet with department heads and other key staff	Consistent with ACA standards. This has been the practice of JCCs historically, and is once again codified in regulation.
		Paragraph C requires administrators to visit youth living and activity areas	Consistent with ACA standards. This has been the practice of JCCs historically, and is once again codified in regulation.
730		Paragraph A is reworded for clarity.	
		Paragraph B removes reference to “personal control units”	Personal control units should be single occupancy only.
		Paragraph C requires that single occupancy rooms be available for wards with special needs	Consistent with ACA standards.
740		Adds requirement to review and update post orders; adds requirement for staff to read, sign and date shift assignment whenever they assume a new position	Consistent with ACA standards. Does not apply when staff temporarily help out by “filling in” when another staff member is absent.
750		Minor change	Specifies that the standard applies to juvenile correctional centers.
760		Institutional operating procedures are required only when it is necessary to supplement standard operating procedures	Clarifies that IOPs are not required if they simply restate SOPs. They are required only when the SOP needs to be elaborated on or qualified in some way to work in a particular facility.
770		Minor change	Specifies that the standard applies to juvenile correctional centers.
	805	Requires compliance with guidance from the Department’s central administration	Subsumes several separate ACA standards that apply to fiscal, personnel, procurement and other administrative practices. Allows the Department to determine specific procedures.